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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,593	12/07/2000	Uwe Voigt	GK-ZEI-3106 / 500343.2010	9580
7590 01/28/2004			EXAMINER	
Gerald H. Kiel, Esq. REED SMITH LLP 375 Park Avenue New York, NY 10016-2391			WACHSMAN, HAL D	
			ART UNIT	PAPER NUMBER
			2857	

DATE MAILED: 01/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/731,593

Applicant(s)

VOIGT ET AL.

Examiner

Hal D Wachsmen

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-13 is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 2-28-03, 12-7-00 and 14 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11-14-03 has been entered.

2. The resubmitted proposed additional Figure 6 with respect to content has been approved by the Examiner. In addition, the previously submitted additional proposed Figures 4 and 5 with respect to content have been approved by the Examiner. However, formal drawings of all the figures are now required correcting the formal discrepancies indicated on the attached PTO-948 form. Appropriate correction is required.

3. The now submitted foreign patent documents that were cited on a previous IDS but not found with that IDS have been considered on the attached PTO-892 form.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3, 8 and 9 rejected under 35 U.S.C. 102(b) as being anticipated by Trussell et al. (4,539,655).

As per claim 1, Trussell et al. (Abstract, col. 5 lines 67, 68, col. 6 lines 1-4) disclose the incorporating step. Trussell et al. (Abstract, col. 5 lines 67, 68, col. 6 lines 1-14, col. 10 lines 30-35, col. 18 lines 50-55) disclose the detecting the status data step. Trussell et al. (Abstract, col. 3 lines 66, 67, col. 4 lines 1-3, col. 5 lines 66, 67, col. 6 lines 1-4, col. 10 lines 31-35, 45, 46, 64, 65) disclose the communicating step.

As per claim 2, Trussell et al. (col. 5 lines 28, 33, col. 6 lines 5-7, 11-23) disclose the feature of this claim.

As per claim 3, Trussell et al. (Abstract, col. 5 lines 28, 33, 67, 68, col. 6 lines 1-7, 11-23, col. 10 lines 30-34, col. 18 lines 50-55) disclose "wherein detecting the status data is accomplished by transferring a master capability.....wherein the control unit with master capability communicates....to detect status data of at least one of the other control units". Trussell et al. (Abstract, col. 3 lines 66, 67, col. 4 lines 1-3) disclose "communicates with the control station....conveying detected status data to the control station".

As per claim 8, Trussell et al. (see at least abstract) disclose the feature of this claim.

As per claim 9, Trussell et al. (col. 5 lines 28, 33, col. 6 lines 5-7, 11-23) disclose the feature of this claim.

6. Claims 1-10 are rejected under 35 U.S.C. 102(a) or 102(b) as being anticipated by Rasmussen (5,884,072).

As per claim 1, Rasmussen (Figures 14-16, col. 26 lines 51-67, col. 45 lines 57-59, col. 51 lines 55-57, col. 55 lines 51-59) discloses the incorporating step. Rasmussen (Figures 12, 14-16, col. 35 lines 55-67, col. 36 lines 1, 2, 53-60, col. 51 lines 55-64; col. 55 lines 51-63) discloses the detecting the status data step. Rasmussen (figures 12, 14-16, 37, col. 51 lines 50-64) discloses the communicating step.

As per claim 2, Rasmussen (see at least abstract) discloses the feature of this claim.

As per claim 3, Rasmussen (Abstract, figures 14-16, col. 55 lines 51-63, col. 57 lines 12-22, 49-67, col. 58 lines 1-21) discloses "wherein detecting the status data is accomplished by transferring a master capability.....wherein the control unit with master capability communicates....to detect status data of at least one of the other control units". Rasmussen (figures 12, 14-16, 37, col. 51 lines 50-64) discloses "communicates with the control station....conveying detected status data to the control station".

As per claim 4, Rasmussen (Abstract, figures 14-16, 42, col. 55 lines 51-63) discloses "at least one control unit with master capability...and the control station communicates with the rest of the control units...wherein a capability of detecting status data is assigned to the at least one control unit with master capability".

As per claim 5, Rasmussen (Abstract, col. 36 lines 53-65, col. 45 lines 39-67, col. 46 lines 1-67) discloses the feature of this claim.

As per claim 6, Rasmussen (Abstract, col. 36 lines 53-65, col. 45 lines 39-67, col. 46 lines 1-67) discloses the feature of this claim.

As per claim 7, Rasmussen (Abstract, col. 49 lines 41-53, col. 57 lines 9-34) discloses the feature of this claim.

As per claim 8, Rasmussen (Abstract, figures 14-16, col. 96 lines 48-65) discloses the feature of this claim.

As per claim 9, Rasmussen (Abstract, col. 96 lines 62-67, col. 97 lines 1-23) discloses the feature of this claim.

As per claim 10, Rasmussen (figures 11, 12, 14-16, col. 16 lines 9-13, col. 25 lines 49-51) discloses a plurality of control units for controlling the parts. Rasmussen (col. 66 lines 12-30) discloses the control station as described in lines 4-6 of the claim. Rasmussen (Figures 12, 14-16, col. 35 lines 55-67, col. 36 lines 1, 2, 53-60, col. 51 lines 55-64, col. 55 lines 51-63) discloses "at least one of the plurality of control units....determined assessment to the control station".

7. Claims 11-13 are allowed.

Claims 11-13 are allowable over the prior art because the prior art does not disclose or suggest: at least one of a plurality of control units, with each control unit controlling an associated adjustable element of an optical measurement or observation device having a plurality of adjustable elements, the at least one control unit having a processor with a master capability of assessing status data of other control units of the plurality of control units so as to offload the work of assessing status data from a central

Art Unit: 2857

control station which itself also has the master capability to control the adjustable elements through the plurality of control units.

8. Applicant's arguments filed 11-14-03 have been fully considered but they are not persuasive with respect to the art rejections that remain above. With respect to the Trussell et al. reference the Applicant argues "However, Trussell does not provide for changing the capabilities of individual nodes to offload the work that has been done by the control station within the meaning of the present invention, nor is this necessary". However, with respect to the underlined above the Applicant is arguing unclaimed merits or distinctions. The Examiner further respectfully notes that with respect to the Trussell et al. reference, no arguments were presented with respect to specifically the cited sections of this reference that were referred to in the previous office action. With respect to the argument concerning the Rasmussen reference, col. 28 lines 31-34, clearly indicates that a distributed system is formed because peer-to-peer communications allow each network control unit to access and use data acquired under the control of any other network control unit. Thus, in this situation for example, the network control unit that is accessing and using data acquired under the control of any other network control unit is exhibiting master capability. The Applicant argues with respect to Rasmussen that "...master controllers are introduced on the level of the "slaves" at least temporarily....and also providing the communication between the control units with permanent slave character and the control station". However, with respect to the underlined above the Applicant is arguing unclaimed merits or distinctions. The Examiner also further respectfully notes that with respect to the


Art Unit: 2857

Rasmussen reference too, no arguments were presented with respect to specifically the cited sections of this reference that were referred to in the previous office action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal D Wachsman whose telephone number is (571) 272-2225. The examiner can normally be reached on Monday to Friday 7:00 A.M. to 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc Hoff can be reached on 703-308-1677. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.


Hal D Wachsman
Primary Examiner
Art Unit 2857

HW
January 24, 2004